

**Final Order Denying Refund: 01-20181662R
Individual Income Tax
For the Year 2013**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Although Individuals submitted their 2013 Indiana individual income tax return in 2018, their claim for a refund of withholding tax was barred by the three-year statute of limitations under either the "claimed" or "paid" provisions of that statute.

ISSUE

I. Individual Income Tax - Timeliness of Refund Claim.

Authority: IC § 6-8.1-9-1(a); IC § 6-8.1-9-1(a)(1); IC § 6-8.1-9-1(a)(2).

Taxpayers argue they are entitled to a refund of 2013 income tax on the ground that their claim is not barred by the three-year statute of limitations.

STATEMENT OF FACTS

Taxpayers are individuals living in Indiana. Taxpayers were notified by the Indiana Department of Revenue ("Department") that they failed to file a 2013 Indiana individual tax return and had been assessed income tax based on the "best information available" to the Department. Taxpayers thereafter filed the 2013 return which was postmarked May 2018. Taxpayers' return claimed "credits" for amounts withheld on their income by their employers. Balancing their reported tax liability against various credits claimed on their late-filed return, Taxpayers requested a refund of approximately \$700. In a letter dated May 2018, the Department denied the refund stating that the claim was barred by the three-year statute of limitations. As explained in the letter, "Your claim requesting the refund was not received before the 3 year period had expired."

Taxpayers disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayers explained the basis for the protest. This Final Order Denying Refund results.

I. Individual Income Tax - Timeliness of Refund Claim.

FINDING

Taxpayers argue that they are entitled to a refund of taxes withheld on their behalf and attributable to the tax year 2013. Taxpayers explain that the failure to timely file the original 2013 return was attributable to "a tax business" with which they had dealt and that the Department failed to notify them of the missing return until 2017. Taxpayers further explain that once they provided their 2013 financial information to their tax preparer "it was out of our hands" until the Department provided the 2017 deficiency notice.

The issue raised by Taxpayers is addressed at IC § 6-8.1-9-1(a) which states in relevant part:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department [I]n order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set

forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

Taxpayers' 2013 return under which the refund was sought was submitted to the Department in May 2018. The original return was due April 2014 which clearly renders the claim untimely under IC § 6-8.1-9-1(a)(1). The taxes were "paid" when the amounts were withheld by their employers during the calendar year 2013 which also bars Taxpayers' May 2018 claim under IC § 6-8.1-9-1(a)(2). Under either the "paid" or "claimed" provision of IC § 6-8.1-9-1(a), Taxpayers' claim is untimely.

FINDING

Taxpayers' protest is respectfully denied.

August 10, 2018

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